

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

Aberdeen

Angela Ivy,

Plaintiff,

v.

Merrick Bank Corporation,

Defendant.

Civil Action No.: 1:14CV105-SA-DAS

COMPLAINT

For this Complaint, Plaintiff Angela Ivy, by undersigned counsels, alleges the following against Defendant, Merrick Bank Corporation:

INTRODUCTION

1. Count I of Plaintiff's Complaint alleges that Defendant negligently, knowingly and/or willfully violated the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (TCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 28 U.S.C. 1331.
3. Because Defendant conducts business in the State of Mississippi, personal jurisdiction is established.
4. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

PARTIES

5. Plaintiff is a natural person who resides in Okolona, Chickasaw County, Mississippi.
6. Defendant is a business entity with its principal place of business in South Jordan, Utah.
7. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

8. In or around 2014, Defendant began placing collection calls to Plaintiff seeking and attempting to collect on an alleged debt.
9. Defendant places collection calls to Plaintiff's cellular telephone at phone number (662) 567-62XX.
10. Defendant places collection calls to Plaintiff from phone numbers including, but not limited to, 800-599-2346.
11. Upon information and belief, Defendant's calls were placed with an automatic dialing system ("auto-dialer").
12. On or around February 19, 2014, Plaintiff spoke to Defendant and requested that Defendant stop placing telephone calls to her cell phone and requested that Defendant correspond in writing only.
13. Plaintiff revoked any consent, explicit, implied, or otherwise, to call her cellular telephone and/or to receive Defendant's calls using an automatic telephone dialing system during the telephone call on or around February 19, 2014.
14. Despite Plaintiff's request to cease, Defendant placed at least thirty-eight (38) automated collection calls to Plaintiff, including but not limited to the following:
 - March 6, 2014: two (2) calls;
 - March 7, 2014: two (2) calls;
 - March 8, 2014: two (2) calls;
 - March 10, 2014: two (2) calls;
 - March 11, 2014: two (2) calls;
 - March 12, 2014: two (2) calls;
 - March 13, 2014: two (2) calls;
 - May 14, 2014: two (2) calls;
 - May 15, 2014: two (2) calls;
 - May 16, 2014: two (2) calls;
 - May 17, 2014: one (1) call;
 - May 18, 2014: two (2) calls;

- May 19, 2014: one (1) call;
- May 21, 2014: two (2) calls;
- May 22, 2014: two (2) calls;
- May 23, 2014: two (2) calls;
- May 27, 2014: two (2) calls;
- May 28, 2014: two (2) calls;
- May 29, 2014: one (1) call;
- May 30, 2014: two (2) calls;
- May 31, 2014: one (1) call.

COUNT I

DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTIONS ACT

15. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

16. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violations of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

Wherefore, Plaintiff, Angela Ivy, respectfully requests judgment be entered against Defendant, Merrick Bank, for the following:

17. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);

18. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

19. All court costs, witness fees and other fees incurred; and

20. Any other relief that this Honorable Court deems appropriate.

RESPECTFULLY SUBMITTED,

By: /s/ Shireen Hormozdi
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DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff demands a jury trial in this case.

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF MISSISSIPPI)

Plaintiff, Angela Ivy, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, Angela Ivy, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Date

Angela Ivy